

Meeting of 2006-11-14 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
NOVEMBER 14, 2006 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John Purcell, Jr.                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   John Vincent, City Attorney  
   Traci Hushbeck, City Clerk  
   COL Sonny Uberti, Fort Sill Liaison

Mayor Purcell called the meeting to order at 6:05 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Monte Ginnings, Northwest Church of Christ, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
Rex Givens, Ward Two  
   Janice Drewry, Ward Three  
   Keith Jackson, Ward Four  
Robert Shanklin, Ward Five  
   Jeff Patton, Ward Six  
   Stanley Haywood, Ward Seven  
   Randy Warren, Ward Eight

ABSENT: None

PROCLAMATION FOR HOME CARE MONTH  
(This proclamation reading was cancelled)

AUDIENCE PARTICIPATION:

Woody Wallace, 1507 SW 7<sup>th</sup> Street, stated that the city gets his tax money and he gets no results. He wonders if the City Council listens to their constituents or if they hear them. There is a big difference. He stated last week he went and applied for his tax exemption. He stated if they had curbing on SW 7<sup>th</sup> Street it would alleviate a lot of problems. There is dirt and gravel that goes in the storm drain on 7<sup>th</sup> and Monroe. He has offered to put in his curbing in front of his property at his own expense. He stated there are probably no more than two people on the council that have been down 7<sup>th</sup> Street to look at the condition.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF SEPTEMBER 26, 2006.

MOVED by Warren, SECOND by Drewry, to approve the minutes of September 26, 2006. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Mayor Purcell stated they need to strike item #7 and pull items #2 and #16. Jackson requested items #5, #10 and #13 be considered separately.

MOVED by Drewry, SECOND by Shoemate, to approve the Consent Agenda items as recommended with the exception of items #2, #5, #7, #10, #13 and #16. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval and consider passage of any resolution

authorizing the City Attorney to file a friendly suit for the claim which is over \$400.00: Tammie Sunday and Joe Delong in the amount of \$446.20. Exhibits:

Legal Opinion/Recommendation and **Resolution 06-173**.

2. Consider the following damage claim as recommended for denial: Michael and Julie Green in the amount of \$7,766.56. Exhibits: Legal Opinion/Recommendation. .

David Butler, attorney for Mr. and Mrs. Green, stated the Greens woke up on September 17<sup>th</sup> and their house was full of sewage where the city line had backed up. He stated they had to stay somewhere else for eleven days. They called the City of Lawton, who came out that day, then came out the next day and fixed the back up. His clients fixed most of the items themselves and provided an itemized damage list to the City Attorney's office. His clients received a notice from the City Attorney's office denying the claim on two grounds. Staff claims this was an act of God because there was an unusual amount of rainfall and the city is not liable. He questioned why there were only two homes flooded. It does not make sense that none of the homes below the Greens were flooded. Staff also claims that the line was not clogged, but that this was a result of main overloads. His response is that if there was not a clog, then why did the city workers come out on two separate occasions and unclog the line. Mr. Green went to the Wastewater Collections Division and was told that there was actually a partial clog. He stated the city also claims there was no prior notice and therefore the city is not liable.

He stated his clients bought the house in 2000 and sometime after they bought the house the same thing happened, just not as severe. The sanitation line backed up into their bathtub. Mr. Green called the city and they came out and cleaned out the line, so obviously there was prior knowledge. He stated he also has a statement from a neighbor which stated in 1985 or 1986 there was a clog in the middle of the street. He stated if the main line would have backed up, as the city claims, the houses below them would have flooded. He is asking that the city just put things back the way they were originally.

Mayor Purcell questioned if the Greens had insurance.

Mr. Butler stated they were advised by their agent that their insurance does not cover this type of action.

Givens stated everyone should have back up insurance, it is not that expensive.

Mr. Green stated he thought they had full coverage.

Drewry stated she did go look at the house and it was a very bad situation.

Vincent stated staff is not disputing that the damage has occurred. If the City Council chooses to pay this claim, staff is recommending a payment of \$7,201.52 based on some depreciation of some items.

Randy Henning, Assistant City Attorney, stated there was a tremendous amount of rain on the day in question. The rain overloaded the system. The back flow is not a result of a clogged line and they have been advised that it is purely due to an over-infiltration of stormwater. This is simply an act of God and there is nothing the City of Lawton could have done with our system to prevent this. We have an adequate system and the City of Lawton is not an insurer against potential damage.

Jackson stated the claims memorandum clearly explains the situation and the City of Lawton did not fail to maintain the system and city records reflect no prior overloads due to stormwater infiltration and with no such notice there is no liability on the part of the City of Lawton.

Drewry questioned why it backed up in the house on the highest level.

Jerry Ihler, Public Works Director, stated typically if you have an overload of the system, there are manholes outside, but it really depends on the finished floor elevation of the home. He stated it could back up at a higher point because there is a problem with the service line. As a result of an overload, the homes at the lower elevation may not have flooded because the manholes outside the house were at a lower elevation than the finished floor.

Patton clarified that Mr. Green stated there was another back up right after they bought the home.

Mr. Green stated he tried to get those records prior to this meeting and was denied.

Mayor Purcell questioned why we would have gone out two days later and clear the line. Why didn't the water just flow through.

Ihler stated anytime after there is a back up in a home or an overflow, crews will go out and do some preventive maintenance to make sure it is clear.

Henning stated from the information they received, there was nothing there when they cleared out the line.

Shoemate questioned if this problem could have been caused by construction going on in that neighborhood.

Ihler stated it shouldn't have affected the sewer system. He stated this particular line is not a new line, but downstream where this ties into was replaced. He stated on that particular day, we received so much rain that we reported 18 sewer overflows to DEQ because of the large amount of rain.

Shanklin questioned if we looked at the claim as to the authenticity. Did we go on the fact that we were going to turn it down for the reasons that are stated.

Henning stated the claim that was submitted was an amount in excess. He stated staff went through the receipts and depreciation was factored in.

Mayor Purcell stated that he feels that Mr. Shanklin was asking if this was a valid claim according to state law.

Shanklin stated he feels we should either pay it and move on or not pay it.

Henning stated if the City Council would like to pay the claim, staff is recommending the reduced amount be paid.

MOVED by Shanklin, SECOND by Drewry, to approve the claim of Michael and Julie Green in the amount of \$7,201.52 and all pertinent paperwork. **(Resolution 06-174)**.

Warren stated they started down a slippery slope in the past when they started paying sewer claims. If this claim had been for \$485, they would have been done 15 minutes ago. The only thing different between this backup and every other back up we have had for the last year and a half is that this one is for \$7,000. If you take the monetary issue out of this, they need to treat this like the rest. He does not necessarily agree with paying these claims, but if they are going to pay it, let's pay it. They can't just pay those claims that only have a small amount of damage.

Shanklin stated, in his opinion, the reason they have paid 90% of these is the fact that we are an insurance company for the citizens of Lawton because we do have inferior systems. He stated 60,000 people cannot fund a city of 100,000. We just don't have the money.

VOTE ON THE MOTION: AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: Jackson. MOTION CARRIED.

3. Consider declaring a tract of land described as Lots 13 through 16, Block 85, Lawton View Addition as surplus property, setting a minimum bid for the purchase price of the entire tract, and authorizing sale by public auction. Exhibits: Request Letter and Location Maps.

4. Consider approving the standard lease agreement for use of the Elmer Thomas Park/ Lake Helen Stage area on June 9, 2007 with Clear Channel Radio upon construction completion of concrete stage. Exhibits: Standard Lease Agreement with Clear Channel Radio is on file in the City Clerk's office.

5. Consider declaring a 3.34 acre tract described as 611 SW Bishop Road as surplus property, and authorizing the appraisal of said tract for the purpose of selling the tract at public auction. Exhibits: Aerial of tract, site plan of expansion and letter of request.

Jackson stated he understands that we need to expand the LATS facility, but he is concerned that we want to sell 3.34 acres of property to a landlord and then he turns around and leases it back to us.

Deborah Jones, Senior Planner, stated we currently are leasing 4,000 square feet from Mr. Bell and LATS is desperate for some additional maintenance area and administrative offices. Staff felt the most economical thing for the trust would be to expand the current facility if they could get some agreement on a lease amount from Mr. Bell and to seek a capitalized lease payment from FTA in which we would pay 20% of the grant and the federal government would pay 80%. If we construct a facility, we are looking at 7,000 square feet versus 4,000 square feet. Mr. Bell would expand the facility and sign a capitalized lease and in time a grant could be used toward payment of this lease.

Jackson stated that the proposed property owner is not going to lease it back to the City just to break even. He is going to make a profit. He would much rather us explore the possibility of building our own facility rather than selling a prime piece of property and having someone lease it back to us.

Mitchell stated he had a couple of meetings with Terry Bell and they tried to find several solutions. They looked at property to the north in hopes that Mr. Bell could go out and purchase that property on his own, but he was not able to negotiate a price. He stated there is not enough property at the Public Works area to accommodate a new transit maintenance facility. We would be looking at going out and acquiring a piece of property and building a facility. This option is much more economical, even though it may not be the best solution.

Shanklin questioned if this was mandatory or is this something they would like to see.

Jones stated there are buses that are now five years old, so there are more maintenance and part requirements. This just happens when you grow.

Shanklin stated he has not heard anyone talk about money. He questioned how much it will cost us when we lease the property.

Jones stated they will not know until they receive an appraisal for the property.

Mitchell questioned the amount of the current lease.

Jones stated \$2,300 per month, of which we pay 20%.

Mayor Purcell stated even if we declare this property as surplus we don't have to accept the bids. This will come back to the City Council.

Vincent stated this could even come back to have the Council set a minimum bid price once we receive the appraisal.

Jackson stated he has a hard time with this.

MOVED by Jackson, SECOND by Shanklin, to deny declaring the property as surplus.

SUBSTITUTE MOTION by Patton, SECOND by Givens, to declare a 3.34 acre tract described as 611 SW Bishop Road as surplus property, and authorizing the appraisal of said tract for the purpose of selling the tract at public auction.

Jackson stated he cannot see being so free with taxpayer money.

Patton stated he cannot see putting millions of dollars into a new facility. He stated let the private industry do what they do best.

Jackson stated we would own that property.

Patton stated we are going to sell it at market value.

Jackson requested that when this issue comes back to the City Council it be placed on the agenda as a business item. He stated they are going to be surprised what is offered for this piece of property.

Vincent stated once we have reached the appraised price and the Council has set a minimum bid price, this does go to public auction subject to Council approval of the final bids. This item will come back at least once, maybe twice.

Jackson questioned if they could have some alternative construction costs.

Mitchell stated they could put together a number.

VOTE ON SUBSTITUTE MOTION: AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: Jackson, Shanklin. MOTION CARRIED.

6. Consider accepting a permanent road and utility easement from Rodney L. Worthen Trust which is needed for the SE Water Treatment Plant Project, authorizing the Mayor and City Clerk to execute the easement and authorizing payment. Exhibits: Document is on file in the City Clerk's office.

7. Consider awarding a construction contract to H. G. Jenkins Construction, Inc. for the Elmer Thomas Park Stage Construction Project #2006-13. Exhibits: None.

8. Consider accepting a temporary easement from Flower Mound School which is needed for the Water Infrastructure Improvement Phase I (Lines) Project #2006-8, and authorizing the Mayor and City Clerk to execute the easement. Exhibits: Easement is on file in the City Clerk's office.

9. Consider granting a Quit Claim Deed to Don and Sally Beavers for a 0.06 acre tract located in part of the Northeast Quarter of Section 6, Township 1 North, Range 11 West, I.M. as part of the Numu Creek Channel Improvement Project #2006-10, and authorizing the Mayor and City Clerk to execute the Quit Claim Deed. Exhibits: Quit Claim Deed is on file in the City Clerk's office.

10. Consider approving the record plat for Arvest Plaza. Exhibits: Plat Map.

Jackson stated by all rights, he should ask them to pull down that big ugly billboard.

MOVED by Jackson, SECOND by Drewry, to approve the record plat for Arvest Plaza. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

11. Consider approving the record plat for Dove Creek Addition, Part 1B, and accepting the improvements, escrow agreement in lieu of completed improvements, maintenance bonds, and an easement outside the platted area. Exhibits: Plat Map. Easement, Escrow Agreement, and Maintenance Bonds on file in City Clerk's Office.

12. Consider accepting sureties for the construction of the sanitary sewer line to serve Independence Place and approving the record plat for Independence Place. Plat Map.

Performance Bond and Payment Bond are on file in the City Clerk's Office.

13. Consider adopting a Resolution authorizing the installation of traffic control measures on NW 67<sup>th</sup> Street at the intersection of Quanah Parker Trailway; SW 82<sup>nd</sup> Street at the intersection of Lee Blvd.; and SW 11<sup>th</sup> Street at the intersection of Lee Blvd. Exhibits: Traffic Commission Minutes, Traffic Issue Requests, and Resolution No. 06-\_\_\_\_.

Jackson stated he does not have a problem with items #1 and #3, but he has a concern about the request to reduce the speed limit from 55 MPH to 45 MPH for the eastbound traffic. He feels we are just setting up a speed trap on this piece of property. He travels that road several times a day and 55 MPH is a safe speed.

Patton stated the reason for this request is the line of sight on that hill

Mayor Purcell stated it is 55 MPH now and most people go 70 MPH.

MOVED by Jackson, SECOND by Haywood, to approve eliminating protective-permissive left-turn movements and to provide only protective left-turn movements for north- and south- bound traffic at the intersection of NW 67<sup>th</sup> Street and Quanah Parker Trailway and to install pedestrian crosswalk signal and striping at the intersection of SW 11<sup>th</sup> Street and Lee Blvd. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Haywood. NAY: Patton. MOTION CARRIED.

Vincent questioned if it was unusual to have one direction one speed and the other direction another speed.

Ihler stated he spoke with the Traffic Engineer about this issue but because of the site distance they felt eastbound traffic speed should be lowered at that location.

MOVED by Jackson, SECOND by Haywood, to deny reduction of the speed limit from 55 MPH to 45 MPH for the eastbound traffic on SW Lee Blvd. from 1000 west of 82<sup>nd</sup> Street to east of 67<sup>th</sup> Street. AYE: Drewry, Jackson, Shanklin, Haywood, Shoemate, Givens. NAY: Warren, Patton. MOTION CARRIED.

14. Consider denying a request for the installation of 4-way STOP at the intersection of NW 17<sup>th</sup> Street and Kingsbury Avenue. Exhibits: Traffic Commission Minutes and Traffic Issue Request.

15. Consider acknowledging receipt of permit from the Oklahoma Department of Environmental Quality for the construction of 6 force main from landfill leachate basin to existing City of Geronimo 8 sanitary force main. Exhibits: None.

16. Consider awarding a professional services contract to Dr. Haney for the purpose of providing Veterinarian services for the City of Lawton and authorize the Mayor and City Clerk to execute the contract. Exhibits: Retainer Agreement for Professional Services

Vincent stated #9 of the Retainer Agreement states that the City Attorney will be contract monitor, it should be the Public Works Director.

Drewry stated she does not want us to get into a situation where we are competing with local vets. She questioned how this is going to work. Are we going to spay and neuter at the animal shelter.

Ihler stated they will be doing some spaying and neutering once they get a veterinarian on board. He stated in the budget a construction project was approved to add on to the animal shelter so they could provide a surgical area and a waiting area. He stated they will perform these surgeries on those animals that were adoptable. He stated no one will be able to come in and ask them to perform the surgery on their pets in competition with the local veterinarians.

Drewry questioned if the person who adopts the animal pays for the procedure.

Ihler stated he is not sure, but that would be an option. He stated currently the person puts up a deposit and they are required to get the animal spayed or neutered and then bring back a slip from the veterinarian.

Vincent stated the person signs a spay or neuter contract which gives them a time period to have this done. If they do not get the animal spayed or neutered, they are issued a citation. He stated this contract will solve this problem.

Givens stated there are some local vets that are objecting to this because we are in competition with them. They feel if an individual adopts a pet and takes it to a local vet, they generally will have that dog for future treatment.

Mitchell questioned if this was a part time position.

Ihler stated they are looking at 12 hours a week.

Patton questioned how this veterinarian was chosen.

Ihler stated this particular vet has been providing services to the animal shelter for several years. He stated they did not go through a process of receiving proposals or bids.

Mayor Purcell stated this was suggested because people were going in, putting up a deposit and not taking their animals to the vet for the procedure. It was cheaper to just forfeit the deposit.

Ihler stated that is one of the reasons for this contract. They would like to have the services of a professional vet give them guidance and to look at animals before they are adopted out.

Jackson stated this City Council approved the expansion of that facility for this very thing.

Ihler stated it was also approved in the budget the hiring of a veterinarian on a part time basis.

MOVED by Drewry, SECOND by Warren, to award a professional services contract to Dr. Haney for the purpose of providing Veterinarian services for the City of Lawton and authorize the Mayor and City Clerk to execute the contract and amend #9 to state that the Public Works Director shall be the City representative for all matters pertaining to this agreement. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

17. Consider extending the contract (CL06-022) Biomonitoring Testing with Bio-Aquatic Testing of Carrollton, TX. Exhibits: Department Recommendation, Contract Extension Form.

18. Consider extending the contract (CL05-018) Hydraulic Root Saws with J&R Equipment, LLC of Oklahoma City, OK. Exhibits: Department Recommendation, Contract Extension Form.

19. Consider approval of payroll for the periods of October 9 November 5, 2006. Exhibits: None.

#### BUSINESS ITEMS:

Mayor Purcell stated they need to strike 1414 SW G Avenue.

20. Hold public hearings and adopt resolutions declaring the structure(s) at: 4625 S.W. J Avenue, 4510 S.W. K Avenue, 718 S.W. 46<sup>th</sup> Street, 726 S.W. 46<sup>th</sup> Street, 742 S.W. 46<sup>th</sup> Street, 1001 S.W. 46<sup>th</sup> Street, 729 S.W. 45<sup>th</sup> Street, 737 S.W. 45<sup>th</sup> Street, 1517 S.W. Douglas Avenue, 912 S.W.G Avenue, 1414 S.W.G Avenue, 2518 S.W. H Avenue to be dilapidated public nuisances, thus causing a blighting influence on the community and detrimental to the public s health and safety. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove each dilapidated structure, if necessary. Exhibits: Twelve Resolutions. Summary documents with supporting photos and reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

4625 S.W. J Avenue: Griffith presented photographs of the property. The property has had no utilities since November 2003. The structure is boarded up.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Warren, to approve **Resolution No. 06-176** and declare the structure at 4625 SW J

Avenue to be dilapidated and a public nuisance. AYE: Shoemate, Givens, Drewry, Jackson, Haywood, Warren. NAY: None. ABSENT: Shanklin, Patton. MOTION CARRIED.

4510 S.W. K Avenue: Griffith presented photographs of the property. The property has had no utilities since February 2002. The property is vacant.

PUBLIC HEARING OPENED.

Carolyn Thomas, 1101 Woodlawn, Tacoma, Washington, stated the property belonged to her mother who passed away seven years ago. She stated she secured the property. She stated people came into the house and destroyed the property. She pays someone to take care of the yard, yet she has received notices from the City of Lawton stating she owes money because they had it cut. She cannot sink \$40,000 - \$50,000 into this house, but she does not want this property torn down. She does not know what her options are. She hopes to do something with this home in the future. She is presently seeking someone to help her work on this home.

Vincent stated if the City Council declares this property dilapidated, Ms. Thomas may obtain a remodel permit or she may obtain a permit to demolish the structure. Either of these permits must be obtained within 30 days of the action tonight. If she does obtain a remodel permit, she will have 30 days to get substantial compliance, which means bringing the whole house up to code.

She stated she has had someone look at the roof and the problem is the shingles and the gutters, not the roof. She stated that HUD had remodeled the home two years before she died.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Givens, to approve **Resolution No. 06-177** and declare the structure at 4510 SW K Avenue to be dilapidated and a public nuisance. AYE: Givens, Drewry, Jackson, Patton, Haywood, Warren, Shoemate. NAY: None. ABSENT: Shanklin. MOTION CARRIED.

718 S.W. 46<sup>th</sup> Street: Griffith presented photographs of the property. The property has had no utilities since March 2006.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Warren, to approve **Resolution No. 06-178** and declare the structure at 718 SW 46<sup>th</sup> Street to be dilapidated and a public nuisance. AYE: Drewry, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. ABSENT: Jackson, Shanklin. MOTION CARRIED.

726 S.W. 46<sup>th</sup> Street: Griffith presented photographs of the property. The property has had no utilities since September 2005.

PUBLIC HEARING OPENED.

Paul Durry, Remax Realtors, stated the property is a VA repossession. They contacted him and he has had it for sale. All the windows were in when it went up for sale. All of the windows were knocked out and vandals kicked out the walls. He has had it boarded up and they have broken in again.

Mayor Purcell stated if the City Council declares this property dilapidated, the same rules would apply as for the previous property.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Shoemate, to approve **Resolution No. 06-179** and declare the structure at 726 SW 46<sup>th</sup> Street to be dilapidated and a public nuisance. AYE: Jackson, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. ABSENT: Shanklin. MOTION CARRIED.

742 S.W. 46<sup>th</sup> Street: Griffith presented photographs of the property. They have no record of utilities for this property.

Jackson questioned if they could find any history of utilities.

Griffith stated they could find nothing on this property.

PUBLIC HEARING OPENED.

Bob Mansell, owner of property, stated the structure was bought ten years ago and was originally on Rogers Lane. The structure was sold to Glenn Harris and he financed the home for him. He stated he paid for six lots and Mr. Harris moved in the home with all of the inspections being made from the City of Lawton. After the home was

moved, very little work was done to the inside. Mr. Harris then filed for bankruptcy. He stated he then foreclosed on the home. He went to District Court in order to save the property and was required to do a certain amount of work on the property. He stated the home has not been lived in since they moved it off of Rogers Lane. All of those homes were in excellent shape when they were moved. He stated the addition has had a problem for a number of years with their foundations. The soil was not decent enough for the foundations.

Mayor Purcell requested that Mr. Mansell just tell them what he would like to do about this particular piece of property. He stated they are trying to clean up Country Heights Addition and they have several pieces of property on this agenda.

Mr. Mansell stated he would like to have 60-90 days to repair the home. He does not want to tear it down. The homes in that addition have gone up in price and this property is worth repairing.

Mayor Purcell stated he would have 30 days to obtain a permit, and then he would have up to 90 days as long as there is progress.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Warren, to approve **Resolution No. 06-180** and declare the structure at 742 SW 46<sup>th</sup> Street to be dilapidated and a public nuisance. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

1001 S.W. 46<sup>th</sup> Street: Griffith presented photographs of the property. He stated staff has had to secure this building several times in the past. The property has had no utilities since 2003.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Drewry, to approve **Resolution No. 06-181** and declare the structure at 1001 SW 46<sup>th</sup> Street to be dilapidated and a public nuisance. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

729 S.W. 45<sup>th</sup> Street: Griffith presented photographs of the property. The property has no record of utilities.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Warren, to approve **Resolution No. 06-182** and declare the structure at 729 SW 45<sup>th</sup> Street to be dilapidated and a public nuisance. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

737 S.W. 45<sup>th</sup> Street: Griffith presented photographs of the property. The property has no record of utilities.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Shoemate, to approve **Resolution No. 06-183** and declare the structure at 737 SW 45<sup>th</sup> Street to be dilapidated and a public nuisance. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

1517 S.W. Douglas Avenue: Griffith presented photographs of the property. The property has no record of utilities. He stated he has had several complaints from the neighborhood watch committee.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Shoemate, to approve **Resolution No. 06-184** and declare the structure at 1517 SW Douglas Avenue to be dilapidated and a public nuisance. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

912 S.W. G Avenue: Griffith presented photographs of the property. The property has had no utilities since December 2001.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Haywood, to approve **Resolution No. 06-185** and declare the structure at 912 SW G Avenue to be dilapidated and a public nuisance. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

2518 SW H Avenue: Griffith presented photographs of the property. He stated this is a vacant structure that has fire



damage. The property has had no utilities since February 2006. He stated the owner is in the process of obtaining a remodel permit. He stated the property does have potential.

PUBLIC HEARING OPENED.

Michael Floyd, 1308 Andrews, stated the new owner of the property just obtained financing for the property. She contacted him today and he tried to obtain a permit today to start the remodel. He stated there will be progress within 30 days.

PUBLIC HEARING CLOSED.

MOVED by Shanklin, SECOND by Haywood, to approve **Resolution No. 06-186** and declare the structure at 2518 SW H Avenue to be dilapidated and a public nuisance. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

21. Hold a public hearing to consider Change 3 to the Consolidated One-Year Action Plan for FFY 2004 to receive input from citizens and provide Council input for the final plan change. Pass a resolution revoking Resolution, 06-78, approve Change 3 to the FFY 2004 Consolidated One-Year Action Plan, and reconfirm the approval of changes to the FFY 1996, 2001, 2002, 2003, and 2005 Consolidated One-Year Action Plans approved in Council Resolution 06-78 which will remain in full force and effect, and authorize the Mayor and City Clerk to execute the implementing documents. Exhibits: Exhibit A: Change 3 to the FFY 2004 Consolidated One-Year Action Plan with the Funding Allocation Summary. (The proposed revision is also on file in the City Clerk s office). Exhibit B: Resolution 06-\_\_\_ Authorizing the Filing of the Change 3 to the Consolidated One-Year Action Plan for FFY 2004. (The proposed revision is also on file in the City Clerk s office).

Tim Libby, Housing and Community Development, stated in 2004 the Bell Drive flood drainage problem project cost was estimated at \$10,000. When it was bid out the actual cost was approximately \$25,000. Staff is requesting the additional funds be taken from funds that are projected to be left over from the improvement of the water line on Gore Boulevard and NE Maine. He stated since the Bell Drive project is \$15,000 more than estimated, the Citizen Participation Plan says that any change greater than 25% must be taken to the City Council for permission to move those funds. Any monies left over, staff is recommending be rolled into the 2006 contingency account for use in other projects.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Givens, to approve **Resolution 06-187** revoking Resolution 04-44, approve Change 3 to the FFY 2004 Consolidated One-Year Action Plan, and reconfirm the approval of changes to the FFY 1996, 2001, 2002, 2003, and 2005 Consolidated One-Year Action Plans approved in Council Resolution 06-78 which will remain in full force and effect, and authorize the Mayor and City Clerk to execute the implementing documents. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

22. Hold a public hearing and consider a resolution amending the 2025 Land Use Plan from Commercial to Residential/High Density and an ordinance changing the zoning from C-3 (Planned Community Shopping Center District) to R-4 (High Density Apartment District) and C-1 (Local Commercial District) zoning classification located at 3502 East Gore Boulevard. Exhibits: Resolution No. 06-\_\_\_, Ordinance No. 06-\_\_\_, Location Map, Site Plan, Applications and CPC Minutes.

Richard Rogalski, Planning Director, stated this request is located on the north side of East Gore Boulevard, west of East Side Park. This request includes approximately 15 acres to be zoned R-4 and approximately 3.92 acres to be zoned C-1. The applicant is Place Acquisition, c/o C. E. Wade, Jr., and the property owner is the Richards Family Group, LLC.

The zoning of the surrounding area is C-3 to the north and west; R-1 (Single-Family Dwelling District), R-3 (Multiple-Family Dwelling District), and C-4 (Tourist Commercial District) to the south; and A-1 (General Agricultural District) to the east. The land use of the surrounding area is vacant and telecommunication tower to the north, vacant and single-family residential to the south, regional park and open space to the east, and vacant to the west. The current land uses of the areas requested to be zoned to R-4 and C-1 are vacant. The proposed use for the R-4 request is a new apartment complex. The complex is specifically designed for military use. A C-3 District requires a minimum of 10 acres in size, therefore, the applicant has requested that the two residual tracts south of the apartment complex be rezoned to C-1 (Local Commercial District). This is the most restrictive commercial classification and is designed for neighborhood convenience shopping.

The area requested for R-4 zoning requires amending the 2025 Land Use Plan for the zoning to be in conformance with the land use plan. The area requested for C-1 zoning will remain Commercial in the land use plan.

On October 12, 2006, the City Planning Commission held a public hearing on this request. During the public hearing one person spoke in favor of the request. The CPC, by a vote of 8 - 0, recommended approval of the request.

Notice of public hearing was mailed on October 24, 2006, to 11 property owners within 300 feet of the requested area, and proper notice was published in *The Lawton Constitution* on October 29, 2006.

PUBLIC HEARING OPENED.

Chuck Wade, attorney for applicant, stated this is a novel concept and his client has put in apartment project similar to this one in other military installations. This is a direct reaction to BRAC. The units are rented by the bed and there are a total of 720 units. The parking requirements are well in excess of code requirements.

Shoemate questioned what street ran next to the C-1 area.

Mr. Wade stated there will be a new street put in as part of the plat that will run along the west edge of the subdivision.

Rogalski stated this will be a public street and will have additional access to the property to the north. This also provides for an emergency access to the apartment facility.

Mitchell questioned how the rent will be structured.

Mr. Wade stated they are structured slightly below the military allowance.

Trevor Tellet, Place Properties, Irving, Texas, stated instead of renting by the unit they will rent by the bed. Each bed would be structured below the base housing allowance, depending on rank. This will be roughly 75% of that allowance, and includes rent, furniture and utilities.

Drewry questioned if they have done these in other locations.

Mr. Tellet stated they have done these in Killeen and El Paso, Texas. These are not yet operating.

Mayor Purcell questioned how they deal with different ranks.

Mr. Tellet stated they have a roommate matching system. An officer is not going to be in the same unit as an unlisted soldier. Most of the one and two bedrooms will be leased to the higher ranks. The three and four bedroom will go to E-4 s and E-5 s.

PUBLIC HEARING CLOSED.

MOVED by Jackson, SECOND by Patton, to adopt **Resolution 06-188** and **Ordinance 06-82**, waive the reading of the ordinance, read the title only. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-82

An ordinance changing the zoning classification from the existing classification of C-3 (Planned Community Shopping Center District) to R-4 (High Density Apartment District) zoning classification on the tract of land located at 3502 E. Gore Boulevard which is hereinafter more particularly described in Section One (1) hereof and changing the zoning classification from the existing classification of C-3 (Planned Community Shopping Center District) to C-1 (Local Commercial District) zoning classification on the tracts located in the 3500 block of East Gore Boulevard which are hereinafter more particularly described in Section Two (2) hereof; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

23. Hold a public hearing and consider adopting Ordinance 06-\_\_\_ creating Article 18-11, Division 18-11-1, Chapter 18, Lawton City Code 2005, creating the Residential Estate District (RE) zoning classification and the regulations for the Residential Estate District. Exhibits: Proposed Ordinance.

Rogalski stated items #23 and #24 both deal with the same issue. Item #23 changes Article 18 and Item #24 changed Article 21. He stated there has been some desire for a different kind of subdivision, a larger lot subdivision that could be built on the outskirts of town. Our R-1 code is written around a very small lot and the design is written around a small lot. He stated this would still be a residential and urban subdivision but you would get a rural feel. This district would allow a single-family detached main dwelling unit on a minimum lot size of 1

acre in addition to some suburban activities such as the keeping of horses as a use permitted on review. This zoning classification could be placed upon a single parcel of land or a residential subdivision containing multiple lots with private recreational amenities.

Parcels or subdivisions would be required to connect to the City water system; however connection to the City's sewer system is dependent upon being within mile of our system. Beyond this distance individual sewage disposal devices approved by the Oklahoma Department of Environmental Quality could be used. The street section for a new residential estate subdivision would be an open section with an open barrow ditch drainage system. Sidewalks would be required on only one side of the block rather than upon both sides of the street.

Prior to establishing the public hearings, the Planning Division sought and received the assistance of Steve Barnes, John Jones, and Ron Nance in our development of the ordinances. The ordinances were also mailed to the Home Builders Association.

Jackson questioned if this would be a requirement of a property owner. He stated if he has 160 acres that adjoins the limit lines of the city of Lawton, will he be required to do this?

Rogalski stated this is a zoning district. This is not an issue that says that if there is an acre lot, you must build this section.

Jackson questioned if he is within the buffer zone of the city of Lawton, will he be required to do this estate development?

Rogalski stated currently much of the land within the buffer zone is A-1 and would require rezoning. It would be up the CPC and City Council in regards to what type of rezoning they would approve in those areas. The buffer zone is something that is out there as a condition and desire of Fort Sill. There is no mandate at this point for any type of density from the City of Lawton.

Jackson stated in his opinion, if he owned property in the buffer zone at this time, he should be able to develop it the way he wants to develop it. He does not want to be forced to zone 160 acres within the buffer zone on the east side of town as estate planning district.

Mayor Purcell stated the purpose of the buffer zone is to keep it A-1 and not go to any other kind, whether it is R-1 or even this district.

PUBLIC HEARING OPENED.

Damon Reinwand, 6208 NE Cache Road, stated he owns property in the buffer zone. He stated he has a section so he was asked by the City Attorney and others that if he put off that property in a buffer zone with Fort Sill he could put up the south of that property for sale. Now he stated they are asked to do 1 acre lots at a minimum instead of acre lots. If you do what the City of Lawton wants you to do when you buy the water, you can't develop the property at all.

Vincent stated that is not what he tried to explain. If this is passed by the City Council, Mr. Reinwand would have an option to do one acre lots without sewer systems, with no curb and gutters if he wanted to go that way. He could still do the acre lots, which is the minimum lot size state law will allow without a sewer system, but if he chose to do that, he would have to put in sidewalks, curbs and gutters. That is his choice. Right now he does not have that option, if this does not pass, he has to do the acre with the curbs, gutters and sidewalks.

PUBLIC HEARING CLOSED.

MOVED by Jackson, SECOND by Drewry, to approve **Ordinance 06-83**, waive the reading of the ordinance, read the title only. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-83

An ordinance related to zoning, creating Article 18-11, Division 18-11-1, Chapter 18, Lawton City Code, 2005, by creating the Residential Estate District (RE) zoning classification and regulations for the Residential Estate District zoning classification, providing for severability and codification.

24. Hold a public hearing and consider adopting Ordinance 06-\_\_ creating Section 21-5-509, Article 21-5, Chapter 21, Lawton City Code 2005, creating the Residential Estate subdivisions standards. Exhibits: Proposed Ordinance.

Rogalski stated that prior to bringing this district to CPC, there was a committee that looked at this issue. The committee was made up of Steve Barnes, John Jones and Ron Nance. The committee felt like it this was a decent

ordinance and it was another option that developers can have to do something with property. This is a street section with no curbs, sidewalk on one side of street with bar ditches on each side with a concrete bottom to help provide maintenance.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Drewry, SECOND by Warren, to approve **Ordinance 06-84**, waive the reading of the ordinance, read the title only. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-84

An ordinance related to subdivisions, creating Section 21-5-509, Article 21-5, Residential Estate Subdivisions, Chapter 21, Lawton City Code, 2005, by creating standards for residential estate subdivisions, providing for severability and codification.

25. Consider Approving a Resolution to establish a training fund for the Lawton Police and Fire Departments by applying \$5.00 to each fund from all citations paid, to an account for such use and said funds will carry over from year to year. Exhibits: Resolution No. 06-\_\_\_\_, Letter to Mayor and Council Members and Citation Info.

Chief Ronnie Smith, Lawton Police Department, stated their training funds run out half way through the year and they do not get all the training and equipment they need. If this fund is set up they will not have to come to the City Council to request the purchase of equipment. The money for this fund will come from a raise in fines which will go into effect December 1<sup>st</sup>. This will be an increase of \$25 a citation and on school fines it will double to \$50. He stated there are a lot of schools that they really need to attend. He stated that Stillwater has been doing this since 1998.

MOVED by Warren, SECOND by Jackson, to approve **Resolution 06-189**. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

26. Consider awarding a construction contract to Joe s Backhoe Service for the NE Bell Drive Drainage Improvement Project #2006-3. Exhibits: None.

Ihler stated in August of this year, the City Council approved plans and specifications and authorized staff to receive bids for a storm drain structure across NE Bell Avenue. Those bids were received on September 5. They received two bids, the lowest from Joe s Backhoe Service from Lawton in the amount of \$19,990.10. Staff is recommending the contract be awarded to Joe s Backhoe Service in that amount.

MOVED by Haywood, SECOND by Drewry, to approve a construction contract to Joe s Backhoe Service for the NE Bell Drive Drainage Improvement Project #2006-3 AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

27. Consider adopting two (2) resolutions; one to direct the apportionment of the ad Valorem Tax increments and one to direct the apportionment of Sales Tax increments to the Lawton Economic Development Authority (LEDA) as a necessary step to implement Tax Increment District #1, Lawton, Oklahoma, and execute the Procedural Memorandum between the City of Lawton and Comanche County Assessor and Treasurer with respect to the operation and implementation of the financial and reporting aspects of the TIF District and authorize the Mayor and City Clerk to execute all proper documents. Exhibits: Resolution 06-\_\_\_\_ (Apportionment for Ad Valorem Tax), Resolution 06-\_\_\_\_ (Apportionment for Sales Tax), Procedural Memorandum Re: Financial and Reporting Procedures - Ad Valorem Taxes Increment District No., City of Lawton.

Mitchell stated the two resolutions establish the payment periods. One resolution is for the advalorem and one is for the sales tax. These direct the County Assessor to make those payments semi-annually within 30 days of December 31<sup>st</sup> and June 30<sup>th</sup> of each fiscal year. The County Assessor has established the base line for the advalorem taxes and staff is close to establishing the base line for the sales tax for the TIF District.

Jackson questioned if in the future, will the City Council receive reports on this on a six month or yearly basis.

Mitchell stated they are required, by stated law, to at least put out an annual report. He stated as the Finance Director put out his monthly financial statement, they will track that dedicated fund.

MOVED by Givens, SECOND by Drewry, to adopt **Resolution 06-190** directing the apportionment of the ad Valorem Tax increments and **Resolution 06-191** directing the apportionment of Sales Tax increments to the LEDA. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

Shanklin questioned why he, Jackson and Warren get to vote on this issue.

Vincent stated this does not deal with the creation of the TIF District or the project plan. This is a resolution directing the county officials to do certain things. This is not a conflict of interest.

28. Consider an ordinance amending Section 22-2-1-215, Division 22-2-1, Article 22-2, Chapter 22, Lawton City Code, 2005, by limiting adjustment to residential single family dwelling consumers if there is an unknown underground leak, providing for severability, and declaring an emergency. Exhibits: Ordinance 06-\_\_.

Vincent stated prior to the September 12<sup>th</sup> council meeting, there had been some discussions concerning commercial unknown underground leaks and outside the city limits unknown underground leaks and should or should they not limit that. At the September 12<sup>th</sup> meeting the City Council directed staff to bring back an ordinance limiting the leak adjustments to just single family residential dwelling customers inside the city limits. The changes have been made in the ordinance.

MOVED by Jackson, SECOND by Warren, to approve **Ordinance 06-85**, waive the reading of the ordinance, read the title only. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-85

An ordinance pertaining to utilities amending Section 22-2-1-215, Division 22-2-1, Article 22-2, Chapter 22, Lawton City Code, 2005, by allowing residential single family dwelling consumers to receive an adjustment on their water bill in the event of an unknown underground water leak, providing for severability, and declaring an emergency.

29. Consider approving a Resolution establishing a moratorium on entering into new agreements for the sale of water outside of city limits. Exhibits: Resolution No. 2006-\_\_ Minutes of the July 25, 2006 Council meeting concerning the possible moratorium.

Vincent stated they had previously brought a resolution to the council during the summertime when we had significant lake loss between Ellsworth and Lawtonka causing Lawtonka to significantly drop. The level dropped to under 1335 and went into mandatory stage 2, but the council chose at that time to see if we got any rain. He stated we are still in the 1335 elevation range at Lawtonka, and we are still continuing to receive inquiries but have no pending applications. Staff has given three or four applications to different customers. He stated staff is really just seeking some direction, does the City Council want to continue to sell water? We have plenty of capacity to produce, but the problem is the availability of the raw material.

Patton questioned how long these contracts are generally in place. Are they on a year to year basis?

Vincent stated they are on a year to year basis, but are generally renewable. Staff will be looking at these things this spring.

Patton stated if someone came in today and signed a new contract, would they have a guaranteed three renewable contract.

Vincent stated they would be told the contract would be renewable every July 1<sup>st</sup> at the option of both parties and they are automatically renewed unless the council tells them not to. It automatically rolls unless they take affirmative action to terminate it.

Givens questioned why this had to be done by resolution. Why don't we just not do it.

Vincent stated the problem is that they have to file an application and there is an application fee. The City Council also has to approve the contract. He stated if contracts are not going to be approved they should not have to pay the application fee. He stated it should be fair and say that until there is more water in the lake there will not be approval of any new contracts.

Givens questioned why there couldn't be a contract that specified that the contract will end at some point when the lake level is low.

Vincent stated they are subject to the water conservation ordinance.

Givens stated for new contracts they could make it even higher.

Vincent questioned if they wanted to give someone a contract for a subdivision and in the middle of construction the lake level goes down and will that terminate the contract.

Givens stated as long as they make it clear in the contract that there is a possibility that they may reach a point where they cannot provide the water.

Patton stated that anyone who lives outside the city limits that signs a contract would have to understand that we have to protect those residents inside the city limits first and foremost.

Vincent stated the other issue is that there is a rural fire district that wants to put fire hydrants on the Waurika line, so he would like to discuss if we want to sell raw water to a rural fire district off the Waurika line.

Mayor Purcell stated that at the last meeting it appeared that the City Council did not want to sell water to outside customers and staff has placed this on the agenda. The question is if they still want to do this.

Jackson stated the Daily Oklahoman has really had some good articles on water related problems across the state. He stated there are lakes drying up across the entire state and he believes that they need to address the proposed problem in Lawton. He stated we have a real problem and even Waurika was mentioned in an article as being four feet down. The city needs to be careful of future water sales outside the city limits. He stated this is not something we really want to do, he believes we need to sell water to as many people that want to buy it if we have it available. But we need to keep an eye on our situation.

Vincent stated if we do get rain there is no problem with bringing this back and rescinding.

Givens stated he does not see what the problem would be when establishing new contracts, if it is not a dire problem, why don't we sell water based on the higher criteria for cutting them off. If they are willing to do this.

Mayor Purcell stated we are just barely above the 1335 level and if we start selling more water we are going to get down to 1334 quicker and we are going to put our residents in the city limit on mandatory rationing because we sold water to outside customers during this time frame. Why not tell them up front that we are not going to sell anymore water until we get some rain and then we bring this back and rescind it.

Mitchell stated what about the idea of passing this resolution and giving staff instruction that if the lake level rises to a certain elevation then we will lift the moratorium.

Vincent stated we can amend the resolution to say that if the lake level gets to 1340, the resolution become null and void. He asked if they would also amend the resolution to include any future outside raw water sales. That is just as damaging as potable water.

Shanklin questioned if we were disenfranchising some people that are developing outside our city limits that are dependent upon us for water.

Vincent stated we have no current contracts pending. There are some people that have picked up applications, but we have no current contract pending to bring before the City Council. He stated if property is annexed there is no problem.

Warren stated he is afraid we will end up disenfranchising a bunch of people before this deal is over because we will not have a choice. It does not look like the rain is going to come. He feels this is something that we will have to accept that will happen.

Givens stated that we don't use everyday the water we are entitled to from Waurika. He questioned if we pump every day.

Ihler stated we have been pumping since February every day as much as they can send us. They have been sending us between 22-25 million gallons a day. He stated the City Attorney will be coming back with a revision to the ordinance for enforcement purposes as far as mandatory restrictions. He stated we might want to take a look at the volume of storage available as it relates to these elevations and consider mandatory go into affect at 1335 or 1336. We have gone through two falls and a spring where we haven't gotten much rain. He suggested an education project with both inside and outside residents.

Mayor Purcell stated as soon as we get enough rain we can bring this back and rescind this moratorium.

Vincent stated they can amend this ordinance to state that when the water level hits 1340 it will automatically be rescinded.

Shanklin stated he does not see how we can turn anyone down with this BRAC deal.

MOVED by Givens, SECOND by Shoemate, to approve **Resolution 06-192** with the amendment that should the lake elevation at Lake Lawtonka reaches 1340 the moratorium is automatically rescinded and prohibit any new raw water

usage. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Patton, Haywood. NAY: Shanklin. MOTION CARRIED.

30. Consider approving an amendment to the agreement between the City of Lawton and Lawton Evening Optimist Soccer Association requesting an increase in the amount of water furnished in exchange for services and direct staff to develop a payment schedule for the current bill. Exhibits: Amendment to Cooperative Agreement, Memorandum from Revenue Service Supervisor and letter from Finance Director.

Jackson stated they met with some of the individuals with LEOSA and they were concerned that the water needed to keep those facilities operational was more than the City Council had allocated at no cost. The additional water that was needed at this complex has brought their bill to approximately \$8,000. He stated he and the other councilmembers that met with the group felt like there was more water needed to take care of this facility. With all the recreation that they contribute to the city of Lawton and the thousands of kids that use that facility every Saturday, they all felt it was a worthwhile cause.

Shanklin questioned how much water they used.

Mayor Purcell stated over 10 million gallons.

Shanklin questioned why they didn't put that out of Cache Creek. There is a million and a half gallons that go down Cache Creek.

Jackson stated he didn't know if they could even do that. He stated they could address that later, but right now they needed to get this problem solved.

Mayor Purcell stated all the concerns that were expressed to him had to do with the rollover. The problem is that we allowed them 10 million gallons at no cost, but they are claiming that last year they only used 6 million gallons. They are questioning why they can't be allowed 14 million this year, because we said they could have 10 million a year. He stated this agreement raises that amount to 15 million gallons a year and we need to address the issue if we will rollover any unused amount.

Vincent stated this is not free water, but a barter system. They are providing a service to the city by taking care of the soccer fields. We never approved to carryover any amount.

Mayor Purcell stated that is the issue with the members of LEOSA.

Vincent stated that was never brought up in any discussions that he was involved.

Givens stated the contract was not worded that way. This amendment should cover this issue.

Mayor Purcell questioned if the rollover issue should be covered in that contract.

Jackson stated because of the \$8,000 water bill, he felt they searched for an out and started looking at the rollover situation. He cannot get excited about a rollover clause. If they cannot get by on 15 million gallons a year, that is the limit and they need to reevaluate the situation.

MOVED by Jackson, SECOND by Shoemate, to approve an amendment to the agreement between the City of Lawton and Lawton Evening Optimist Soccer and direct staff to develop a payment schedule for the current bill. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

31. Consider an ordinance amending Sections 17-2-9-201, 202, 203, 204, 205, 207, 208, 214 and 215, Division 17-2-9, Article 17-2, Chapter 17, Lawton City Code, 2005, relating to the Employee Advisory Committee; specifically revising the EAC to represent those city employees not covered by either the Oklahoma Municipal Employees Collective Bargaining Act or the Oklahoma Fire and Police Arbitration Act, providing for severability, and declaring an emergency. Exhibits: Ordinance No. 06-\_\_\_\_, Letter regarding AFSCME certification.

Greg Buckley, Assistant City Manager, stated on October 12<sup>th</sup> the Oklahoma Public Employees Relations Board (PERB) certified AFSCME as the bargaining representing under the Municipal Employees Collective Bargaining Act (MECBA) for those general employees eligible to be covered under unionization. The current makeup of the EAC incorporates both eligible employees covered and non eligible employees that would not be covered. The EAC would be recognized as also serving as a bargaining representative agent if it continues to serve in the capacity of the current make up. This ordinance will rework the EAC to only cover those employees that are not eligible to be covered under the MECBA or the fire or police collective bargaining act. The EAC will still provide that representation and voice to the City Council. Currently the EAC does not incorporate supervisory employees and this ordinance would allow supervisory position below the department head level to serve and be a part of the EAC, inclusive of those general employees that are not eligible to be covered by a bargaining agent.

Jackson questioned if this was creating a fourth union within the City of Lawton and has this been certified by PERB.

Buckley stated the EAC is a City of Lawton/Council program and would be continuing to be allowed to be the voice of those employees.

Jackson stated that actually this is creating a fourth union in the City of Lawton.

Mitchell stated this would create a fourth employee group. They would not be a union.

Jackson stated any time you have a union, you will always have people that are not qualified for unionship and this is that group. They should not be represented by a union. He stated he is being told that this is another bargaining agent that the City Council will have to deal with.

Warren stated this is the EAC that we have right now. All this does is limit the membership to those who don't have the availability of representation from the union.

Givens questioned if the EAC was going to represent the police and fire personnel that don't belong to the police and fire union.

Buckley stated no. Under the police and fire arbitration act there is a representative body that covers those ineligible positions. Regardless of the individual preference of whether they join or don't join the union, that is the employee preference. The position would be covered or not covered under the statute.

Vincent stated the PERB has established a collective bargaining unit for fireman, police and general employees. There is no requirement that those people join the union. But by law, they cannot be represented by anybody but that union. Even if they don't join that union, they cannot be represented by the EAC.

Givens questioned if there were any other cities that had a City/Council organization representing those employees not belonging to the union.

Buckley stated he does not know how other cities are utilizing non representative employee groups. The Human Resource Director or City Manager may be representative to that voice.

Patton questioned how many people would be eligible to be a member of the EAC.

Buckley stated approximately 105-110 employees.

Mayor Purcell stated if those employees are not eligible for a union, they would have no voice at all with the City Council.

Warren stated it is not by their choice, it is simply determined by the job they hold.

Patton clarified that if a person is eligible, but chooses not to join the union, they cannot be a member of the EAC.

Buckley stated that is correct.

MOVED by Drewry, SECOND by Warren, to approve **Ordinance 06-86**, waive the reading of the ordinance, read the title only and declare an emergency. AYE: Givens, Drewry, Patton, Haywood, Warren, Shoemate. NAY: Jackson, Shanklin. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-86

An ordinance pertaining to employee advisory committee amending Sections 17-2-9-201; 202; 203; 204; 205; 207; 208; 214; and 215, Division 17-2-9, Article 17-2, Chapter 17, Lawton City Code, 2005, revising the Employee Advisory Committee (EAC) to represent those city employees not covered by either the Oklahoma Municipal Employees Collective Bargaining Act or the Oklahoma Fire and Police Arbitration Act, providing for severability, and declaring an emergency.

32. Consider an Ordinance amending Section 22-1-2-114, Division 22-1-2, Article 22-1, Chapter 22, Lawton City Code, 2005, by establishing the water contracts for wholesale customers, providing for severability, declaring an emergency, establishing an effective date, and approve a resolution adopting a rate per 1,000 gallons for wholesale customers. Exhibits: Ordinance No. 2006-\_\_ and Resolution No. 2006-\_\_.

Vincent stated they settle the outside water rate case and created, by that settlement, what is called wholesale customers. Their rate is \$3/per 1,000 gallons. This ordinance merely effectuates a definition of a wholesale



customer and the resolution establishes the rate. There would be two additional wholesale customers that could come into this rate, Cotton County Rural Water District #2 and Comanche County Rural Water District #4.

Shanklin questioned if in 2009 when the Southeast Water Treatment plant comes on, the cost for staffing will be \$1.5 to staff and operate it, are they going to make this smoke and mirrors or are they going to say this is water. Will the cost of that water go on our water bill? If we don't put it on the water bill, we can't pass it on. What kind of recourse will they have to put in on the sewer line.

Vincent stated that customer we are talking about has agreed to increases by the settlement on a penny for penny increase. If the inside rate goes up 10 cents, the outside rate goes up 10 cents for the wholesale customer.

MOVED by Givens, SECOND by Shoemate, to approve **Resolution 06-193** and **Ordinance 06-87**, waive the reading of the ordinance, read the title only, declare an emergency and establish an effective date. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-87

An ordinance pertaining to utilities amending Section 22-1-2-114, Division 22-1-2, Article 22-1, Chapter 22, Lawton City Code, 2005, by establishing water contracts for wholesale customers, providing for severability, declaring an emergency and establishing an effective date.

33. Consider approving an Ordinance pertaining to Business amending Sections 7-30-1-3002 and 7-30-1-3003, Division 7-30-1, Article 7-30, Chapter 7, Lawton City Code, 2005, by setting forth application requirements for body piercing and tattoo parlors and artists, providing for severability and declaring an emergency and consider approving a Resolution amending Appendix A, Schedule of Fees and Charges, Lawton, City Code, 2005, as amended, clarifying the fees for body piercing and tattoo parlor and artist permits. Exhibits: Ordinance No. 06-\_\_\_\_ and Resolution No. 06-\_\_\_\_.

Mike Jones, Code Plans Supervisor, state the ordinance and fee schedule has been revised to reflect lower fees all across.

Mayor Purcell stated the City Council directed these changes at the previous meeting.

Jackson questioned how many parlors we have licensed and in operation.

Jones stated staff is currently working on three, maybe four. None are currently open.

MOVED by Warren, SECOND by Drewry, to approve **Resolution 06-194** and **Ordinance 06-88**, waive the reading of the ordinance, read the title only and declare an emergency. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-88

An ordinance pertaining to business amending Sections 7-30-1-3002 and 7-30-1-3003, Division 7-30-1, Article 7-30, Chapter 7, Lawton City Code, 2005, by setting forth application requirements for body piercing and tattoo parlors and artists, providing for severability and declaring an emergency.

ADDENDUM:

1. Consider approving the construction plat for Oak Pointe Addition, Part 1, Phases 1 and 2. Exhibits: Plat Map.

Rogalski stated Oak Pointe Addition, Part 1, Phases 1 and 2, are located northwest of the intersection of SW 67<sup>th</sup> Street and Bishop Road and consist of 106 single-family residential lots on 29.43 acres. On November 9, 2006, the City Planning Commission approved the construction plat subject to several conditions. At this time all conditions have been met except the following: 1) Obtain a 404 permit from the US Army Corps of Engineers for work within the channel. (Application has been made per Landmark Engineering) and 2) Obtain Oklahoma Department of Environmental Quality permits for public water and sanitary sewer main extensions.

MOVED by Haywood, SECOND by Jackson, to approve the construction plat for Oak Pointe Addition, Part 1, Phases 1 and 2, subject to conditions listed. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Shanklin left the meeting at 9:00 p.m.

Givens stated on the sales tax report he would like to see a paragraph on the front page saying what percentage we are at in the budget and showing the figure of where we are in actual collections. He has asked for this for a long time. He stated what is important is what we are collecting with respect to what we have budgeted. That shows how we are doing. He stated in zone one there is a tremendous problem with Super 9 Motel. Each month he receives a police report and there is anywhere from five to ten incidents every month at that particular motel. On the website, that motel looks like a nice place to stay to those visiting Lawton for Fort Sill activities. He stated once they see the room, they ask for their money back and the owners will refuse to give it back. Many probably just walk away and the incident is never reported. He stated the police and fire departments have been out there numerous times and the owner chooses to do nothing. He stated this is a black eye for anyone who visits our community.

Mitchell stated staff can proceed with a nuisance complaint and there will be a point that we can declare it a public nuisance. This will take an effort from the police, who have already started logging information regarding this motel.

Givens stated the efforts need to be moved up a little quicker.

Chief Ronnie Smith, Lawton Police Department, stated in August they had 31 incidents at this location, in September it dropped to 10 and in October it went to 12. He stated he can get statistics together for all of the violations.

Givens stated he does not understand how they can park semi-tractor trailers in the back of the property.

Warren stated there is also a problem across the street which probably contributes to the situation.

Drewry questioned why the health department can't close them down.

Givens stated they will hardly check anymore unless there is a big complaint.

Mayor Purcell questioned if there is documentation that many military folks have been ripped off, we could get that information to COL Uberti and the military could place that motel off limits.

Chief Smith stated he will get with Neighborhood Services Division and they will work on the code violations and the police will gather up the incident reports.

Shoemate questioned if something could be done about the area around 26<sup>th</sup> and Cache Road. There are shootings, stabbings, fights and littering.

Chief Smith stated he has been out there on Friday and Saturday nights and he has seen what is going on. He stated they have officers that go out there at closing time just so they can be seen.

Drewry stated that we are really on a move to clean up Lawton and she feels we cannot drop the ball. We need to do whatever we have to do.

Chief Smith stated he plans on increasing the gang task force by two people.

Mayor Purcell stated they need to attack these areas from every direction.

Jackson suggested the City Manager contact the chamber of commerce regarding Motel 9.

Patton stated the gang problem really seems to be taking off and he realizes the police department is doing all they can, but they need to get them some more help.

Haywood questioned if someone breaks into your home and your dog escapes, do you have to pay to get that dog out of the animal shelter.

Vincent stated they would need to speak to the prosecutor who could set it aside.

Haywood stated that Mrs. Mayfield passed away today. He stated she was a strong supporter of his. He stated she will be missed by everyone.

Mayor Purcell distributed a list of the task force members and purpose of the task force. He stated they have already met a couple of times. Their report is due to the City Council by January 10<sup>th</sup>. The City Council can discuss the sales tax issue at the first meeting in January. The resolution has to be to the election board by February 1<sup>st</sup> for an April election.

Mitchell they have been talking a lot about capital infrastructure and a possible sales tax election next spring. He distributed an article regarding how cities have historically paid for and financed capital improvements.

The Mayor and Council convened in executive session at 9:15 p.m. and reconvened in regular, open session at 10:07 p.m. Roll call reflected all members present excluding Shanklin.

**BUSINESS ITEMS: EXECUTIVE SESSION ITEMS**

34. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the damage claim of Lucetta Pullins, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 34. He stated the City Council did have discussion concerning this claim. No action is required at this time.

35. Consider convening in executive session pursuant to Section 307B.3, Title 25, Oklahoma Statutes, to discuss the sale of City owned property located at 306 SW A Avenue, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 35. He stated the City Council did have discussion concerning this item. No action is required at this time.

36. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the semi-annual evaluation review of Larry Mitchell, City Manager, and if necessary, take appropriate action in open session. Exhibits: None.

Mayor Purcell read the title of item 36. He stated Mr. Mitchell was rated outstanding in all areas and the City Council is happy with the way he is performing his duties.

There being no further business to consider, the meeting adjourned at 10:10 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK